

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554
29 March 1996

IN REPLY REFER TO:
1800B2-RMD

ABS Communications, Incorporated
300 Arboretum Place
Suite 590
Richmond, Virginia 23236

In re: Application for New FM Station
Anderson, SC
File No. BPH-951101MA

Dear Applicant:

This concerns your referenced application for a new station which is mutually exclusive with the pending license renewal application for Station WJMZ-FM, Anderson, SC (File No. BRH-950801VV).

Section 204 of the recently-enacted Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56 (1996), amended Section 309 of the Communications Act by adding Section 309(k), which eliminates the comparative renewal process and specifies a new two-step procedure for broadcast station license renewals. Under the new procedure, as outlined below, your referenced application cannot be accepted and considered by the Commission.

The new two-step renewal procedure sets forth new standards which the Commission is required to use in determining whether to grant a licensee's renewal application. See 47 U.S.C. § 309(k)(1). In making this determination, the Commission is prohibited from considering "whether the public interest, convenience, and necessity might be served by the grant of a license to a person other than the renewal applicant." 47 C.F.R. § 309(k)(4). Only if the Commission determines, after notice and opportunity for a hearing, that a renewal applicant has failed to meet the new renewal standards may the Commission "accept and consider such applications for a construction permit as may be filed under Section 308 specifying the channel and broadcasting facilities of the former licensee." 47 U.S.C. § 309(k)(3). These new procedures apply to all renewal applications filed after May 1, 1995.

Because the Commission has not made a determination that the licensee for WJMZ-FM has failed to meet the requirements of Section 309(k)(1), your application cannot be accepted for filing. Accordingly, your application for construction permit (File No. BPH-951101MA) IS HEREBY DISMISSED as unacceptable for filing and is returned with this letter.¹

Sincerely,

Stuart B. Bedell
Assistant Chief, Audio Services Division
Mass Media Bureau

Attachment

cc: Marissa G. Repp, Esquire
Alan C. Campbell, Esquire

¹ We note that on February 21, 1996, the applicant filed a "Request to Withdraw Application." Based on our action above, the request IS DISMISSED as moot.